

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Vale	Team: Squad #6	CCRB Case #: 201803217	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/24/2018 12:50 PM	Location of Incident: Inside of Battery Park	Precinct: 01	18 Mo. SOL 10/24/2019	EO SOL 10/24/2019	
Date/Time CV Reported Wed, 04/25/2018 2:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/25/2018 2:48 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Daniel Feldman	04022	922328	001 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Khamwatee Brijbukhan	25718	932365	001 PCT
2. POM Kasiem Griffin	21347	928428	001 PCT
3. Officers			001 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Daniel Feldman	Abuse: Sergeant Daniel Feldman threatened to arrest § 87(2)(b)	
B.SGT Daniel Feldman	Abuse: Sergeant Daniel Feldman threatened to arrest § 87(2)(b)	
C.SGT Daniel Feldman	Force: Sergeant Daniel Feldman used physical force against § 87(2)(b)	
D.SGT Daniel Feldman	Discourtesy: Sergeant Daniel Feldman spoke discourteously to § 87(2)(b)	
E.SGT Daniel Feldman	Force: Sergeant Daniel Feldman tightly handcuffed § 87(2)(b)	
F.SGT Daniel Feldman	Discourtesy: Sergeant Daniel Feldman acted discourteously toward § 87(2)(b)	

Case Summary

On April 25, 2018, § 87(2)(b) filed the following complaint via telephone with the Civilian Complaint Review Board.

On April 24, 2018, at approximately 12:50 p.m., Sgt. Daniel Feldman of the 1st Precinct approached § 87(2)(b) and § 87(2)(b) inside of Battery Park in Manhattan, for performing in a prohibited section of the park with an amplified sound device, a speaker, at a high volume. Sgt. Feldman asked § 87(2)(b) and § 87(2)(b) to provide their identifications and stated that if they refused to provide it then they would be arrested (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). Sgt. Feldman then approached § 87(2)(b) standing in close proximity of her. § 87(2)(b) placed her right hand outward and Sgt. Feldman pushed her hand away (**Allegation C: Force**, § 87(2)(g)). § 87(2)(b) informed Sgt. Feldman that she would be filing a 311 complaint to which Sgt. Feldman allegedly responded, “I don’t give a fuck” (**Allegation D: Discourtesy**, § 87(2)(g)). § 87(2)(b) was arrested and charged with § 87(2)(b). No other individuals on scene were arrested or summonsed.

As § 87(2)(b) was being walked out of Battery Park, Sgt. Feldman approached her and tightened the handcuffs (**Allegation E: Force**, § 87(2)(g)). Sgt. Feldman confiscated § 87(2)(b)'s speakers as arrest evidence and threw § 87(2)(b)'s speaker into the back of the police vehicle (**Allegation F: Discourtesy**, § 87(2)(g)).

Video footage was obtained from § 87(2)(b) which captured a portion of this incident (BR 01), and an embedded Snag-it video is attached below.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Daniel Feldman threatened to arrest § 87(2)(b)

Allegation B – Abuse of Authority: Sergeant Daniel Feldman threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that he held a conversation with Sgt. Feldman regarding whether he and his family had permission to perform in a prohibited section within Battery Park (BR 02). Sgt. Feldman informed § 87(2)(b) that he had warned him on multiple occasions that he was prohibited in performing in the particular section. Sgt. Feldman then asked § 87(2)(b) and § 87(2)(b) to provide their identifications and stated that if they refused to provide their identification then they would all be arrested.

The investigation was unable to obtain a statement from § 87(2)(b) regarding this incident (BR 03).

§ 87(2)(b) was interviewed at the CCRB during which time he made no allegations on his own behalf (BR 04). § 87(2)(g)

Sgt. Feldman stated that during the incident has asked § 87(2)(b) to provide her identification as one of the males on scene identified her as the owner (BR 05). However, Sgt. Feldman denied requesting any of the three males on scene to provide their identification as there

was no need for them to provide it since they would not be issued a summons for the speaker. Sgt. Feldman further denied threatening to arrest the males and did not recall telling them that they could have been arrested for refusing to provide their identifications.

PO Kasiem Griffin of the 1st Precinct, a witness in this incident, stated that the males on scene were never asked to provide their identification, and he did not hear Sgt. Feldman threaten any of them with arrest if they refused to provide their identifications (BR 06).

PO Khamwatee Brijbukhan of the 1st Precinct, a witness in this incident, stated that Sgt. Feldman approached all males on scene and instructed them to provide their identification (BR 07). Since the males refused to provide their identifications, Sgt. Feldman instructed them to turn off the speaker. He then approached § 87(2)(b) and asked her to provide her identification as she was closest to the speaker. PO Brijbukhan did not recall Sgt. Feldman telling any of the males that they could be arrested for refusing to provide their identifications. Eventually, all civilians on scene provided their identifications.

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: Sergeant Daniel Feldman used physical force against

§ 87(2)(b)

§ 87(2)(b) stated that as she leaned over her trolley bag to place her speaker into the bag, Sgt. Feldman approached her from behind (BR 08). As she stood up, Sgt. Feldman walked around and stood directly in front of her leaving no space in between. § 87(2)(b)'s immediate response was to place her right hand in front of her face with her palm facing outward. Sgt. Feldman used his right hand and smacked § 87(2)(b)'s hand down. § 87(2)(b) did not receive any injuries and did not seek medical attention for this incident.

§ 87(2)(b) stated that as § 87(2)(b) placed her hand towards her cheek and ear, Sgt. Feldman slapped her hand down while stating “Put your hand down. Don’t ever put your hands on me.” § 87(2)(b) moved backwards as a result of this action (BR 02).

§ 87(2)(b) stated that Sgt. Feldman approached § 87(2)(b) from behind and grabbed her right arm as she leaned into the trolley bag (BR 03). § 87(2)(b) pulled her arm away and proceeded to stand upright. Sgt. Feldman walked closer to § 87(2)(b) who turned halfway around to face Sgt. Feldman. § 87(2)(b) placed both hands in front of her face. Sgt. Feldman used his right hand to slap § 87(2)(b)'s hand while telling her not place her hands in his face.

Sgt. Feldman stated that when he observed § 87(2)(b) attempting to place the speaker in the trolley bag he informed her that she could not take it as it would be vouchered (BR 05). § 87(2)(b) placed her hand out extending it a few inches from Sgt. Feldman’s face. Sgt. Feldman

considered this to be a threat given that § 87(2)(b) was close to him within his zone of safety. § 87(2)(b) “brushed” § 87(2)(b)’s hand by pushing her hand down causing her to move back. § 87(2)(b) did not complain of any injuries sustained from this action.

PO Griffin stated that when Sgt. Feldman informed § 87(2)(b) that she could not take the speaker, she became loud and pointed her index finger at Sgt. Feldman’s face (BR 06). Sgt. Feldman extended his hand with his palm facing § 87(2)(b) while telling her to move her finger from his face. PO Griffin did not see Sgt. Feldman slap § 87(2)(b)’s hand or make any contact with her.

PO Brijbukhan stated that § 87(2)(b) and Sgt. Feldman spoke a few feet from one another (BR 07). She did not observe a physical interaction between them and did not see Sgt. Feldman make contact with § 87(2)(b)’s hand.

Patrol Guide Procedure 221-02 states that officers may take necessary actions to protect life and personal safety of all persons and should apply no more than the reasonable force necessary to gain control (BR 09).

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: Sergeant Daniel Feldman spoke discourteously to

§ 87(2)(b)

§ 87(2)(b) stated that she told Sgt. Feldman that she would call 311 to file a complaint against him to which he responded, “I don’t give a fuck. You can call right now” (BR 08).

Video footage obtained for this portion of the incident showed § 87(2)(b) stating that she was going to call someone on Sgt. Feldman. § 87(2)(b) did not specify who she would be contacting. Sgt. Feldman responded that he wanted § 87(2)(b)’s speaker. Throughout the 17:35 minute video provided for this incident, no profanity was uttered by Sgt. Feldman (BR 01).



2018-09-06_8-58-06.mp4

Sgt. Feldman stated that he did not recall if § 87(2)(b) mentioned that she would be calling 311 to file a complaint against him. He did not recall using any profanity towards § 87(2)(b) and did not recall using the expletive “fuck” towards § 87(2)(b).

§ 87(2)(g)

Video footage, which captured the portion of the interaction in which § 87(2)(b) stated that the use of profanity had occurred, showed that Sgt. Feldman did not use the word “fuck” towards § 87(2)(b). Furthermore, the entire video obtained for this incident showed that Sgt. Feldman did not use profanity towards § 87(2)(b).

§ 87(2)(g)

Allegation E – Abuse of Authority: Sergeant Daniel Feldman tightly handcuffed § 87(2)(b)

Allegation F – Abuse of Authority: Sergeant Daniel Feldman acted discourteously toward

§ 87(2)(b)

§ 87(2)(b) stated that as she was being escorted out of the park since she was under arrest, Sgt. Feldman approached her and tightened the handcuffs (BR 08). Later on, as she stood next to a police vehicle, § 87(2)(b) saw Sgt. Feldman take her speaker and throw it into the trunk of the vehicle.

§ 87(2)(b) stated that when Sgt. Feldman approached § 87(2)(b) she stated out loud “he tightened my cuffs” (BR 02). However, § 87(2)(b) did not see Sgt. Feldman tightened the handcuffs. Sgt. Feldman took § 87(2)(b)’s speaker and provided her with a property voucher.

§ 87(2)(b) remained inside of the park as § 87(2)(b) was being escorted outside, and therefore, did not witness the remainder of the incident (BR 04).

Video footage obtained did not capture the entire incident which included § 87(2)(b) being escorted out of the park (BR 01).

Sgt. Feldman denied adjusting or retightening § 87(2)(b)’s handcuffs and stated that he had no reason to come in contact with the handcuffs (BR 05). Sgt. Feldman did not recall who took § 87(2)(b)’s speakers to be vouchered. He denied throwing the speakers into a police vehicle and did not observe any damage on the speakers.

PO Griffin did not observe Sgt. Feldman approach § 87(2)(b) and retighten the handcuffs (BR 06). He acknowledged to taking possession of the speakers and placing it into his police vehicle. At no point, did PO Griffin observe Sgt. Feldman throw the speakers into the vehicle.

PO Brijbukhan did not observe Sgt. Feldman retighten § 87(2)(b)’s handcuffs (BR 07). § 87(2)(b)’s speakers were taken and vouchered. However, PO Brijbukhan did not know which officer took the speakers. She did not see Sgt. Feldman throw the speakers into a vehicle.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 10).
- § 87(2)(b) has been a party to two CCRB complaints and has been named as a victim in two allegations (BR 11).

○ § 87(2)(b)

- § 87(2)(b) has been a party to four CCRB complaints and has been named a victim in two allegations (BR 12).
 - § 87(2)(b)
- Sgt. Feldman has been a member-of-service for 19 years and has been a subject in four prior CCRB complaints and seven allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 10, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 13).
- § 87(2)(b), § 87(2)(c)
- § 87(2)(b), § 87(2)(c)

Squad No.: 6

Investigator: _____
Signature Investigator Diana Vale
Print Title & Name Date

Squad Leader: _____ Investigative Manager Jessica Peña _____
Signature Print Title & Name Date

Reviewer: _____

Signature	Print Title & Name	Date
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